



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND-S, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution seeking remedy under the Residential Tenancy Act (Act). The landlord applied for compensation for alleged damage to the rental unit by the tenant, authority to keep the tenant's security deposit to use against a monetary award, and recovery of the cost of the filing fee.

The landlord's agent (agent) attended the hearing; however, the tenant did not attend.

The agent stated they served the tenant with their Application for Dispute Resolution, evidence, and Notice of Hearing (application package) by registered mail on February 9, 2022, one day after being provided the application package by the Residential Tenancy Branch (RTB). The agent provided the Canada Post Tracking Number to confirm this mailing. The number is listed on the cover page of this Decision.

I find the tenant was sufficiently served the landlord's application as required by the Act and the hearing proceeded in the tenant's absence.

The agent was informed at the start of the hearing that recording of the dispute resolution is prohibited.

The agent was provided the opportunity to present their evidence orally and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the RTB Rules of Procedure (Rules). However, not all details of the agent's submissions and or arguments are reproduced here; further, only the evidence relevant to the issues and

findings in this matter are described in this Decision. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Issue(s) to be Decided

Is the landlord entitled to the requested monetary compensation from the tenant and recover of the filing fee?

Background and Evidence

This tenancy began on July 15, 2018, and ended on January 16, 2022. The monthly rent was \$6,500 and the tenant paid a security deposit of \$3,250. Filed into evidence was a copy of the written tenancy agreement.

The landlord's monetary claim as shown on their monetary order worksheet filed into evidence is as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Cleaning/carpet cleaning	\$2000.00
2. Repair	\$483.24
3. Filing fee	\$100.00
TOTAL	\$2,583.24

The agent submitted that they are entitled to the monetary compensation sought to clean and repair the damage done to the rental unit during the tenant's tenancy. The agent submitted that the tenant damaged the wall, hand railing and there was water damage to the baseboard. Additionally, the tenant failed to properly clean the rental unit and left it dirty. The landlord filed photographs of the rental unit showing extensive carpet staining.

The agent said the tenant failed to attend the move-out inspection.

The agent submitted they sought this monetary award as the rental unit was not left reasonably clean and the damage was beyond reasonable wear and tear. The photographs depict the rental unit was not in a habitable condition at the end of the tenancy.

In addition to the photographs, the landlord submitted the condition inspection report (Report), notating the extensive damage and receipts for the costs incurred.

These photographs showed wall and carpet damage, dirty windows, stove and refrigerator, and broken glass on the dining area light fixture.

The landlord's evidence showed that they retained the amount of their monetary claim of \$2,583.24 from the tenant's security deposit and returned the balance of \$666.76.

The landlord's application was their request to be able to permanently keep the amount they withheld from the tenant's security deposit to satisfy their monetary claim.

The tenant did not attend the hearing and no evidence or submissions were provided.

Analysis

Under section 7(1) of the Act, if a landlord or tenant does not comply with the Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other party for damage or loss that results. Section 7(2) also requires that the claiming party do whatever is reasonable to minimize their loss. Under section 67 of the Act, an arbitrator may determine the amount of the damage or loss resulting from that party not complying with the Act, the regulations or a tenancy agreement, and order that party to pay compensation to the other party. The claiming party has the burden of proof to substantiate their claim on a balance of probabilities.

At the hearing, the agent explained that they had incurred the loss as a result of the significant damage done to and the condition of, the rental property necessary to bring the rental unit back to a habitable state. The agent provided photographs showing the damage and unclean state of the rental unit along with receipts in support of these costs.

Residential Tenancy Policy Guideline #16 notes, "The purpose of compensation is to put the person who suffered the damage or loss in the same position as if the damage or loss had not occurred. It is up to the party who is claiming compensation to provide evidence to establish that compensation is due." This *Guideline* continues by explaining, "the party who suffered the damage or loss can prove the amount of or value of the damage or loss."

I find that the landlord provided sufficient evidence that the tenant did not leave the rental unit reasonably clean and undamaged, less reasonable wear and tear. I therefore find the tenant did not comply with his obligation under the Act, and that it was necessary for the landlord to incur the costs claimed. Furthermore, I find the photographs submitted in evidence to accurately show the extent of the damage caused by the tenant and that these costs were reasonable.

I therefore find the landlord submitted sufficient evidence to support their claim of \$2000 for cleaning and carpet repair, \$483.24 for repairs and the filing fee of \$100. I therefore find the landlord has established a total monetary claim of \$2583.24.

As a result, I authorize the landlord to keep the balance of the tenant's security deposit of \$2583.24 in satisfaction of their monetary claim.

Conclusion

The landlord has submitted sufficient evidence to support their monetary claim of \$2583.24 and is authorized to keep the part of the tenant's security deposit they retained, the amount of \$2583.24.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: September 15, 2022

Residential Tenancy Branch